THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.7302 of 1997

21-02-2007

Between:-

A.L. Kantha Rao

Petitioner

And

A.G. & S.G. Degre College, Vuyyuru
Rep., by its Secretary and Correspondent
Governing Body Mr. R. Bhakta and six others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 7302 of 1997

Oral order:

The petitioner seeks regularization as lecturer in Telugu in A.G. & S.G. Degree College, Vuyyuru, Krishna district, an aided educational institution; and the salary attached to an aided post, apart from invalidation of the appointment of the fifth respondent as a Telugu Lecturer of the College.

According to the petitioner, after having worked as part-time lecturer in several Government Degree Colleges during 1985 to 1989, he joined the first respondent College in 1990 to impart instruction in Telugu on a consolidated salary of Rs.1500-00 per month. According to the petitioner, the respondent-College promised him a permanent occupation in course of time. He continued to serve the College since 1990 with a three month break every summer (during April, May and June). As the 5th respondent was being appointed on regular basis as a lecturer in Telugu in the first respondent-College and on that account the

petitioner was informed by the management that it was not possible to regularize his appointment and in an aided post, the writ petition is filed seeking the reliefs already adverted to.

The petitioner asserts that he is having adequate qualifications and has also passed the National Eligibility Test conducted by the Andhra Pradesh College Service Commission and is thus eligible for consideration and appointment as a lecturer in a degree college on U.G.C. scales of pay and in an aided vacancy. The petitioner also asserts that he is working in a regular vacancy in an aided post since 1990 and therefore is entitled for regularization.

The writ petition is wholly silent as to the normal method of filling up of posts of lecturers in degree colleges. The writ petition is premised on an assumption that regularization of temporary appointments is the only legitimate method of recruitment to an aided post. Such an assumption has no basis either in jurisprudence or in any legal principle.

Admittedly, the first respondent-College is an aided college. Aided posts are funded from the exchequer by way of grant-in-aid. Appointment to such posts is governed by constitutional and legal limitations, particularly a requirement that they should be filled up in a manner which is transparent, provides equal opportunities to all qualified to compete for this State largesse and in a manner that applies the equality injunctions under Articles 14 and 16 of the Constitution of India. As is apparent from the pleadings in the writ petition, the petitioner has some how been identified by the management of the College for appointment in 1990 as a temporary lecturer in Telugu.

There was no advertisement, calling of applications from all eligible candidates, no process of interview that assessed the

merit of the petitioner vis-a-vis other applicants and all public law policies were totally jettisoned. The petitioner's entry into the first respondent-College is clearly by a clandestine and back door method. On first principles and on precedential authority including the law reiterated by the Supreme Court in SEC. STATE OF KARNATAKA & ORS., v. UMA DEVI & 3 ORS., [1], the petitioner is not entitled to regularization. Any executive order of the Government that provides for regularization of such appointments would be clearly unconstitutional.

Learned Government Pleader for Education states that recruitment to the posts of lecturers in Degree Colleges is governed by the statutory rules issued in G.O.Ms.No.127 Edn., dated 07-06-1993 wherein out of four vacancies of lecturers in degree colleges, three are required to be filled up by promotion from Junior lecturers working for the same management and the fourth vacancy is to be filled up by direct recruitment. As the petitioner is not a Junior Lecturer working under the same management, he has to compete for appointment as a lecturer in the first respondent College only through the direct recruitment route. The petitioner's initial appointment in 1990 could not even by a perversion of language be considered a direct recruitment. As already stated it was a clandestine entry outside the locus of law.

Regularization of such appointments would be subversive of our constitutional and legal order. No Mandamus can be issued to perpetuate such a heresy. There are no merits. The writ petition is accordingly dismissed. No costs.

GODA RAGHURAM, J

Dated:21-02-2007
Pvks/*

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[1] 2006 (4) SCC 1